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ORIGINAL
FILED

MAY 13 1997

8 Attorneys for Plaintiff TREND MICRO INCORPORATED

9 RICHARD W. WIEKING
10 CLERK, U.S. DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12 SAN JOSE

13 UNITED STATES DISTRICT COURT
14 NORTHERN DISTRICT OF CALIFORNIA

15 TREND MICRO INCORPORATED, a
16 California Corporation,

17 Plaintiff,

18 v.

19 McAFFEE ASSOCIATES, INC., a Delaware
20 Corporation, and SYMANTEC
21 CORPORATION, a Delaware Corporation,

22 Defendants.

23 Ct-97 20438

24) CASE NO.) COMPLAINT FOR
25)) PATENT INFRINGEMENT

26) JURY DEMAND

27 PVT
28 PAP

29 Plaintiff Trend Micro Incorporated ("TREND"), for its complaint against
30 Defendants McAfee Associates, Inc. ("McAFFEE") and Symantec Corporation ("SYMANTEC"),
31 hereby alleges as follows:

32 JURISDICTION AND VENUE

33 1. This is a civil action for patent infringement arising under the patent laws of the
34 United States, 35 U.S.C. §1 et seq. Subject matter jurisdiction is proper under 28 U.S.C. §1331
35 and 28 U.S.C. §1338. Venue is proper under 28 U.S.C. §1391 and 28 U.S.C. §1400(b).

36 PARTIES

37 2. Plaintiff TREND is a corporation duly organized and existing under the laws of

1 the State of California, with its principal place of business at 20245 Stevens Creek Blvd.,
2 Cupertino, California 95014. TREND designs, develops, manufactures and sells antivirus
3 software products in the United States and throughout the world.

4 3. On information and belief, Defendant McAFFEE is a Delaware corporation with its
5 principal place of business at 2710 Walsh Avenue, Santa Clara, California 95051.

6 4. On information and belief, Defendant SYMANTEC is a Delaware corporation
7 with its principal place of business at 10201 Torre Avenue, Cupertino, California 95014-2132.

8 **INFRINGEMENT OF U.S. PATENT NO. 4,673,996**

9 5. Plaintiff TREND is the owner by assignment of United States Patent No.
10 5,623,600 ("the '600 patent"), entitled VIRUS DETECTION AND REMOVAL APPARATUS
11 FOR COMPUTER NETWORKS, which was duly and legally issued by the United States Patent
12 and Trademark Office on April 22, 1997. A true and correct copy of the '600 Patent is attached
13 hereto as Exhibit A.

14 6. Without the consent or authorization of Plaintiff TREND, each of the Defendants
15 McAFFEE and SYMANTEC has directly infringed, contributed to the infringement of, and
16 induced infringement by others of the '600 Patent, and continues to do so, by making, using,
17 selling, licensing and supporting, in this district and elsewhere, antivirus software and related
18 products which fall within the scope of one or more of the claims of the '600 Patent, including
19 the WebShield and GroupShield products made by McAFFEE and the Norton Antivirus for
20 Internet Email Gateways product made by SYMANTEC.

21 7. Each Defendant's infringement of the '600 Patent has caused, and continues to
22 cause, damage to Plaintiff in an amount to be proven at trial.

23 8. Plaintiff TREND has placed each of the Defendants on notice that it infringes the
24 '600 Patent, yet each Defendant continues to infringe said patent.

25 9. On information and belief, each Defendant's infringement of the '600 Patent is
26 willful, deliberate and in conscious disregard of Plaintiff's rights, making this an exceptional
27 case within the meaning of 35 U.S.C. §§284 and 285.

28 10. On information and belief, each of the Defendants will continue to infringe the

1 '600 Patent causing immediate and irreparable harm to Plaintiff TREND, for which TREND has
2 no adequate remedy at law, unless and until this Court enjoins and restrains each of the
3 Defendants' aforesaid infringing activities.

4 **WHEREFORE, Plaintiff TREND prays that:**

5 A. This Court adjudge that the '600 Patent has not been established to be invalid or
6 unenforceable;

7 B. Defendants SYMANTEC and McAFFEE, and each of them, be adjudicated and
8 deemed to have infringed the '600 Patent, directly, by inducement, and contributorily;

9 C. A preliminary and permanent injunction be issued enjoining Defendants
10 SYMANTEC and McAFFEE, and each of them, and each of their officers, agents, servants,
11 employees, and attorneys, their distributors, resellers, and all others acting in privity or concert
12 with them, from further infringing, contributing to, or inducing infringement of, the '600 Patent,
13 including:

14 (i) making, using, selling, offering for sale, importing, leasing and licensing
15 infringing products;

16 (ii) renewing licenses for infringing products;

17 (iii) providing support and maintenance for infringing products;

18 (iv) supplying virus signature patterns for new viruses for infringing products;

19 and

20 (v) making new versions or enhancements of infringing products.

21 D. Plaintiff TREND be awarded full compensatory damages by reason of each
22 Defendants' separate infringement as herein set forth, together with prejudgment and post-
23 judgment interest, and that said damages be separately trebled based on each Defendant's willful
24 infringement pursuant to 35 U.S.C. §285;

25 E. Plaintiff TREND be awarded its costs and attorneys' fees pursuant to 35 U.S.C.
26 §285; and

27 ///

28 ///

1 F. This Court grant such other and further relief as may be just and proper under the
2 circumstances.

3
4 DATED: May 13, 1997

TOWNSEND AND TOWNSEND AND CREW LLP

5
6 By: William J. Bohler
7 Joel L. Linzner
8 William J. Bohler
9 Roger Kennedy
10 Attorneys for Plaintiff
11 TREND MICRO INCORPORATED

DEMAND FOR JURY TRIAL

Plaintiff demands a trial by jury of all issues triable to a jury in this action.

DATED: May 13, 1997

TOWNSEND AND TOWNSEND AND CREW LLP

By: William T. Bork

Joel L. Linzner

William J. Bohler

Roger Kennedy

Attorneys for Plaintiff

TREND MICRO INCORPORATED

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SOLICITOR

TO:

Commissioner of Patents and Trademarks
Washington, D.C. 20231MAY 15 1997 REPORT ON THE
FILING OR DETERMINATION OF AN
ACTION REGARDING A PATENT

U.S. PATENT & TRADEMARK OFFICE

In compliance with the Act of July 19, 1952 (66 Stat. 814; 35 U.S.C. 290) you are hereby advised
that a court action has been filed on the following patent(s) in the U.S. District Court:

DOCKET NO.	DATE FILED	U.S. DISTRICT COURT
97-20438 RMW PVT ENE	05/13/97	NOrthern District of CA.
PLAINTIFF	DEFENDANT	
Trend Micro Incorporated	McAfee Associates, et al	
PATENT NO.	DATE OF PATENT	PATENTEE
1 5,623600	04/22/97	Trend Micro, Inc.
2		
3		
4		
5		

In the above-entitled case, the following patent(s) have been included:

DATE INCLUDED	INCLUDED BY	<input type="checkbox"/> Amendment	<input type="checkbox"/> Answer	<input type="checkbox"/> Cross Bill	<input type="checkbox"/> Other Pleading
PATENT NO.	DATE OF PATENT	PATENTEE			
1					
2					
3					
4					
5					

In the above-entitled case, the following decision has been rendered or judgment issued:

DECISION/JUDGMENT	

CLERK	(BY) DEPUTY CLERK	DATE
Richard Wieking	melissa peralta	05/13/97